

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DERRICK DALE FONTROY, et al., : CIVIL ACTION

Plaintiffs :

v. :

JEFFREY A. BEARD, et al., :

Defendants : NO. 02-CV-2949

DEFENDANTS' OBJECTIONS TO BILL OF COSTS (DOCUMENT 314)

Defendants object to the Bill of Costs (document 314) apparently filed by plaintiff Fontroy, on the following grounds:

1. The document was not served on counsel for the defendants.
2. The document was not served on the other plaintiffs.
3. The "prevailing party" has not been finally determined, defendants having appealed the judgment against them, and at least one plaintiff having appealed the judgment against plaintiffs.
4. Based on orders of the court entered to date, plaintiffs are not fully prevailing parties. The court entered judgment against them as to some of their claims.
5. Items 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 18 are not costs allowed by 28 U.S.C. § 1920.
6. Plaintiff Fontroy is not entitled to Item 1 (filing fee) without proof that he paid the filing fee.
7. Item 5 (photocopies) is unjustified, unspecified, and unproven.

Defendants deny that plaintiff Fontroy, or any of the other plaintiffs, incurred

copying costs in the amount claimed for copies of papers necessarily obtained for use in the case. Most of the documents plaintiffs filed were unnecessary to the disposition of the case. Plaintiffs did not serve copies of most of the documents they filed on defendants' attorney.

8. Item 17 (Marshal's fees) is undocumented and unproven. Plaintiff is not entitled to any Marshal's fees unless he proves that he incurred them, that they were necessary for the prosecution of this case, and that he paid them.

9. Defendants reserve the right to raise other objections if plaintiff is ultimately determined to be the prevailing party and the Clerk proceeds to tax costs against defendants.

THOMAS W. CORBETT, JR.
Attorney General of Pennsylvania

By: s/ John O. J. Shellenberger

John O. J. Shellenberger
Chief Deputy Attorney General
Attorney I.D. No. 09714
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CERTIFICATE OF SERVICE

I, John O. J. Shellenberger, hereby certify that DEFENDANTS' OBJECTIONS TO BILL OF COSTS (DOCUMENT 314) has been filed electronically and is available for viewing and downloading from the Court's Electronic Case Filing System. The ECF System's electronic service of the Notice of Electronic Case Filing constitutes service on the following, who has consented to electronic service:

Teri B. Himebaugh, Esquire.

I further certify that a true and correct copy of DEFENDANTS' OBJECTIONS TO BILL OF COSTS (DOCUMENT 314) was mailed on May 23, 2007, by first class mail, postage prepaid to:

Derrick Dale Fontroy, AY-7513
State Correctional Institution
at Fayette
50 Overlook Drive
LaBelle, PA 15450-1050

Aaron Christopher Wheeler, BZ-2590
State Correctional Institution
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P.O. Box 244
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Theodore B. Savage, CB-2674
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s/ John O. J. Shellenberger

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